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P A T E N T

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Letters Patent of: )  
Mueller et al. ) Application No.: 10/789,372  
Patent No.: 7,311,720 ) Examiner: K. Dowe  
Issued: December 25, 2007 ) Art Unit: 3734

For: CLOSURE DEVICE FOR A PUNCTURE CHANNEL AND APPLICATOR DEVICE

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
**ATTENTION: Certificate  
of Correction Branch**

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 ATTENTION: Certificate of Correction Branch on January 21, 2008.

By: Carol Prentice

CAROL PRENTICE

**REQUEST FOR CERTIFICATE OF CORRECTION**  
**PURSUANT TO 37 C.F.R. §1.322**

Dear Sir:

Transmitted herewith is a Certificate of Correction for U.S. Patent No. 7,311,720, which issued on December 25, 2007. Upon reviewing the patent, the patentees noted several errors. Specifically, words and portions of the Examiner's Amendment attached to the Notice of Allowability were omitted from claims 1 and 24 in the printed patent. In addition, minor typographical errors appear in claims 24 and 25.

A Certificate of Correction is enclosed, and reads as follows:

- (1) Column 11, line 12: after "only" insert -- one --.
- (2) Column 12, between lines 19 and 20 insert:  
-- a closure device; and  
an applicator device for holding and positioning said

**Certificate  
of Correction**  
JAN 29 2008

closure device;

a trocar sheath adapted to accept the applicator  
device and the closure device;

said closure device comprising:--.

- (3) Column 12, line 23: "wherein" is corrected to read  
-- wherein:--.
- (4) Column 12, lines 25 and 26 are corrected to read:  
--hinged joint for swiveling movement on the base part  
at only one end of the closure device--.
- (5) Column 12, line 49: "meals" is corrected to read  
-- means --.
- (6) Column 12, line 50: "prevent" is corrected to read  
-- prevents --.
- (7) Column 12, line 55: "wading" is corrected to read  
-- wardly --.

Enclosed is a copy of Patentee's Amendment mailed on July 16, 2007 and a copy of the Examiner's Amendment attached to the Notice of Allowability evidencing the requested corrections. Claim 24 in the issued patent corresponds to claim 31 in the Amendment.

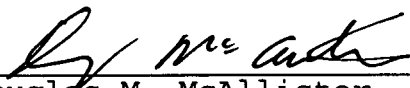
Since the errors for which a Certificate of Correction is sought were the result of Patent and Trademark Office mistakes, no fee is due (35 U.S.C. §254). The issuance of the enclosed Certificate of Correction is therefore respectfully requested.

Patent No.: 7,311,720  
Page 3

Attached hereto, in duplicate, is Form PTO-1050, with at least one copy being suitable for printing.

Please send the Certificate to Patentee's undersigned representative.

Respectfully submitted,

  
\_\_\_\_\_  
Douglas M. McAllister  
Attorney for Applicant(s)  
Registration No. 37,886  
Lipsitz & McAllister, LLC  
755 Main Street, Bldg. 8  
Monroe, CT 06468  
(203) 459-0200

ATTORNEY DOCKET NO.: HOE-803  
Date: January 21, 2008



### EXAMINER'S AMENDMENT

1. The following is a complete response to the amendment filed 7/19/2007.
2. Applicant's arguments, filed 7/19/2007, with respect to the rejection of claim 1 as being anticipated by King et al. (US 3,874,388) have been fully considered and are persuasive. The rejection of claims 1, 4-11, 13-15, and 17-30 has been withdrawn. Accordingly, the finality has additionally been withdrawn.
3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Douglas McAllister on 7/31/07.

4. The application has been amended as follows:

#### IN THE CLAIMS

Cancel claims 8-10

Claim 1 line 2 after "provide bearing" delete [areas and/or hold bearing]

Claim 1 line 7 after "base part" insert --at only one end of the closure device--

Claim 1 line 11 after "wings" delete [at least partially overlap] and replace with --have partially overlapping contact with--

**COPY**

Art Unit: 3734

Claim 1 line 12 after "base part" insert --and the arrangement of the wings in the flapped-in position has a circumference which is identical to or smaller than that of the base part--

Claim 13 line 2 after "form the bearing areas" delete [and/or hold the bearing areas]

Claim 25 line 2 after "areas" insert --on the base part--

Claim 31 line 1 at start of line delete [Applicator device for a closure device, said closure device] and replace with --A closure system, said closure system--

Claim 31 between lines 1 and 2 insert

--a closure device; and

an applicator device for holding and positioning said closure device;

a trocar sheath adapted to accept the applicator device and the closure device;

said closure device comprising:--

Claim 31 line 2 after "plurality of" add --separate--

Claim 31 line 2 after "provide bearing areas" delete [and/or hold bearing areas]

Claim 31 delete lines 5-6 and replace with

--wherein:

each of the wings are held by means of a respective film hinged joint for

swiveling movement on the base part at only one end of the closure device;

the joints are fixed on an upper surface of the base part, said upper surface

facing the tissue when bearing areas bear on the tissue; and  
the wings are arranged for swiveling movement on the base part such that in a  
flapped-in position neighboring wings have partially overlapping contact with  
one another such that no part of the wings protrudes laterally over the base part  
and the arrangement of the wings in the flapped-in position has a circumference  
which is identical to or smaller than that of the base part;--

Claim 31 line delete line 9

Claim 31 line 11 after "from" delete [a] and replace with --the--

5. The following is an examiner's statement of reasons for allowance: The prior art  
of record does not teach or suggest a closure device having a plurality of wings  
connected to an upper side of a base part with respective film hinged joints *at only one  
end* such that in a flapped-in position, or delivery configuration, neighboring wings *have  
partially overlapping contact* with one another and the arrangement of the wings has a  
circumference identical to or smaller than that of the base part.

Any comments considered necessary by applicant must be submitted no later  
than the payment of the issue fee and, to avoid processing delays, should preferably  
accompany the issue fee. Such submissions should be clearly labeled "Comments on  
Statement of Reasons for Allowance."



PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: )  
)  
Mueller, et al. ) Examiner: K. Dowe  
)  
Serial No.: 10/789,372 ) Art Unit: 3734  
)  
Filed: February 26, 2004 )  
)

For: **CLOSURE DEVICE FOR A PUNCTURE CHANNEL AND  
APPLICATOR DEVICE**

MAIL STOP AMENDMENT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first-class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on: July 16, 2007.  
Signature: Carol Prentice  
Carol Prentice

**AMENDMENT**

Dear Sir:

This Amendment is responsive to the Office Action mailed on March 29, 2007, for which a petition and fee for a one-month extension of time is being submitted simultaneously herewith. Please amend the above-identified U.S. patent application as follows:

**Amendments to the Claims** are reflected in the listing of claims which begins on page 2 of this paper.

**Remarks** begin on page 8 of this paper.

**COPY**

Amendments to the Claims:

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims:

1. (Currently amended) Closure device for an opening in a layer of tissue, comprising:

a plurality of separate wings which provide bearing areas and/or hold-bearing areas on tissue surrounding the opening; and

a base part;

wherein:

each of the wings are held by means of a respective film hinged joint joints for swiveling movement on the base part, *at only one end of the closure device*

the joints are seated fixed on an upper side surface of the base part, said upper side surface facing the tissue when bearing areas bear on the tissue; and

the wings are arranged for swiveling movement on the base part such that in a flapped-in position they neighboring wings at least partially overlap one another such that no part of the wings do not protrude laterally over the base part. *have no contact with*

2. (Cancelled).

3. (Cancelled).

4. (Original) Closure device in accordance with claim 1, wherein swivel axes of the joints are oriented substantially at a right angle to a central axis of the base part.

5. (Previously presented) Closure device in accordance with claim 1, wherein swivel axes of the joints lie parallel to tangents to an outer circumference of the base part.



✓ 6. (Original) Closure device in accordance with claim 1, wherein the wings are held integrally on the base part.

✓ 7. (Previously presented) Closure device in accordance with claim 1, wherein the wings in an area outside of the associated joints are of substantially rigid design.

✗ 8. (Original) Closure device in accordance with claim 1, wherein the wings hold bearing elements made of a bendable material.

*cancelled*  
✗ 9. (Original) Closure device in accordance with claim 8, wherein a bearing element is spanned between adjacent wings.

✗ 10. (Previously presented) Closure device in accordance with claim 8, wherein in the flapped-in position the bearing elements are folded.

✓ 11. (Previously presented) Closure device in accordance with claim 1, wherein the base part in an area outside of the joints is of substantially rigid design.

12. (Cancelled).

✓ 13. (Previously presented) Closure device in accordance with claim 1, wherein in a flapped-out position, the wings form the bearing areas and/or hold the bearing areas on the tissue.

✓ 14. (Original) Closure device in accordance with claim 13, wherein in the flapped-out position, the wings are oriented substantially at a right angle to a central axis of the base part.

- 9 15. (Original) Closure device in accordance with claim 1, wherein the joints are set back on the base part in relation to a circumferential rim of the base part.
16. (Cancelled).
- 10 17. (Previously presented) Closure device in accordance with claim 1, wherein said plurality of wings comprises at least two wings.
- 11 18. (Previously presented) Closure device in accordance with claim 1, wherein said plurality of wings comprises diametrically opposed wings.
- 12 19. (Previously presented) Closure device in accordance with claim 1, wherein the wings are arranged around a circumference of the base part.
- 13 20. (Original) Closure device in accordance with claim 1, wherein the base part has a round outer cross section.
- 14 21. (Original) Closure device in accordance with claim 1, wherein a suture thread is held on the base part.
- 15 22. (Original) Closure device in accordance with claim 1, wherein the base part has spaced openings for a suture thread to pass therethrough.
- 16 23. (Previously presented) Closure device in accordance with claim 1, wherein in the flapped-in position, the wings extend at an incline to the base part.

24. (Previously presented) Closure device in accordance with claim 1, wherein the base part is provided with one or a plurality of bearing areas for the wings, which inhibit swiveling of the wings beyond a bearing position.

25. (Original) Closure device in accordance with claim 24, wherein the bearing area or bearing areas is or are formed on a ring-shaped bearing element.

26. (Original) Closure device in accordance with claim 24, wherein the wings comprise a support for placement against the associated bearing areas.

27. (Previously presented) Closure device in accordance with claim 1, wherein the wings have a width which increases in a direction away from the base part.

28. (Original) Closure device in accordance with claim 1, wherein the base part is provided with a coupling for a holding mandrel.

29. (Original) Closure device in accordance with claim 1, wherein the base part comprises a holding element for the wings and a ring element.

30. (Previously presented) Closure device in accordance with claim 29, wherein the ring element is held on the holding element by a snap closure.

31. (Currently amended) Applicator device for a closure device, said closure device comprising:  
a plurality of wings which provide bearing areas and/or hold bearing areas on tissue surrounding an opening in the tissue; and  
a base part;  
wherein the wings are held by means of respective joints for swiveling movement on the base part;

~~said applicator device being insertable into a trocar sheath~~, said applicator device comprising:

~~a trocar sheath;~~

a positioning element which is longitudinally displaceable in the trocar sheath and by means of which the wings of the closure device are transferable from <sup>the</sup> a flapped-in position in which the closure device is displaceable in the trocar sheath to a flapped-out position; ~~and~~

a holding mandrel for holding and positioning the closure device, said holding mandrel having a hollow interior through which a suture thread is guided; and

a first centering means for centering<sup>the</sup> the positioning element in the trocar sheath;

wherein the positioning element provides a second centering means for the holding mandrel ~~inhibiting~~ which substantially prevents transverse movability of the holding mandrel relative to the positioning element.

32. (Previously presented) Applicator device for a closure device in accordance with claim 31, wherein the positioning element comprises bearing areas for the wings for swiveling the wings outwardly.

33. (Cancelled).

34. (Previously presented) Applicator device for a closure device in accordance with claim 31, wherein the positioning element surrounds the holding mandrel at least partially.

35. (Previously presented) Applicator device for a closure device in accordance with claim 31, wherein the holding mandrel is guided for longitudinal displacement on the positioning element.

36. (Cancelled).

37. (Cancelled).

38. (Currently amended) Applicator device for a closure device in accordance with claim <sup>24</sup>§ 1, wherein the first centering means comprises one of a reducing sleeve or a set of reducing sleeves ~~is provided for positioning~~ centering the positioning element in the trocar sheath.

**REMARKS**

This Amendment is responsive to the Office Action mailed on September 5, 2006. Claims 1, 31, and 38 are amended. Claim 37 is cancelled. Claims 1, 4-11, 13-15, 17-32, 34, 35, and 38 are pending.

As a preliminary matter, Applicants would like to thank the Examiner and her supervisor for the courteous and productive telephone interview held on June 28, 2007 and the follow-up telephone call from the Examiner on July 11, 2007, the details of which are set forth below.

Claims 31, 32, 34, and 35 are rejected under 35 U.S.C. § 102(b) as being anticipated by King (US 3,874,388).

Claims 1, 4-11, 13-15, 17-20, 23-26, and 28-30 are rejected under 35 U.S.C. § 103(a) as being unpatentable over King in view of Redmond (US 6,613,070).

Claims 21 and 22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over King and Redmond in view of Himpens (US 5,397,331).

Claim 27 is rejected under 35 U.S.C. § 103(a) as being unpatentable over King and Redmond in view of Rousseau (US 6,616,685).

Claim 37 is rejected under 35 U.S.C. § 103(a) as being unpatentable over King in view of Himpens (US 5,397,331).

Claim 38 is rejected under 35 U.S.C. § 103(a) as being unpatentable over King in view of Shichman (US 6,197,041).

Applicants respectfully traverse these rejections in view of the amended claims and the following comments.

**Discussion of June 28 Telephone Interview and Follow-up Conversation with Examiner**

Applicants agree with the Interview Summary mailed by the Examiner on July 10, 2007. In particular, during the June 28, 2007 Interview, Applicants' counsel discussed with the Examiner and the Examiner's supervisor, Michael Hayes, the rejection of claim 1 in view of King. The Examiner agreed that King failed to disclose or suggest wings that do not protrude

laterally over the base part in a flapped in position and where the joints of the wings are fixed on the upper side of the base part. Applicants' counsel agreed to amend claim 1 to clarify that the wings are "fixed" on the upper side of the base part, rather than "seated" on the upper side of the base part. The Examiner indicated that a further search would be necessary before claim 1 could be allowed.

On July 11, 2007, the Examiner telephoned undersigned counsel to indicate that her further search revealed U.S. patent no. 7,052,516 to Cauthen. The Examiner indicated that Figures 13-15 of Cauthen appeared to read on Applicants' claim 1. The Examiner agreed to withdraw the finality of the Office Action and permit Applicants to submit claim amendments and arguments over Cauthen.

The claims are amended herein to overcome Cauthen, as discussed in detail below.

The Examiner is requested to formally list the Cauthen reference on a Form PTO-892 and forward same to the Applicant with the next Official Communication.

#### Discussion of Amended Claims

Claim 1 is amended to clarify that the wings are "fixed" on the upper side of the base part, rather than "seated" on the upper side of the base part. In addition, claim 1 is amended to specify that the wings are separate wings and that each wing is held on the base part by a respective film hinged joint. Claim 1 is also amended to specify that the joints are fixed on an upper surface of the base part. In addition, claim 1 is amended to specify that, in a flapped-in position, neighboring wings at least partially overlap one another such that no part of the wings protrudes laterally over the base part.

Claim 31 is amended to positively claim the trocar sheath. Claim 31 is also amended to include the subject matter of claim 37, in particular that the holding mandrel has a hollow interior through which a suture thread is guided. Claim 1 is also amended to specify a first centering means for centering the positioning element in the trocar sheath. Claim 31 is also amended to clarify that the centering means for the holding mandrel is a second centering means which

substantially prevents transverse movability of the holding mandrel relative to the positioning element.

Claim 37 is cancelled.

Claim 38 is amended to conform to the changes made to claim 31.

#### Discussion of Cauthen and Applicants' Amended Claim 1

Cauthen discloses a spinal disc annulus repair stent for repair and reconstruction of the spinal disc wall. The Examiner has indicated that Figures 13-15 of Cauthen read on Applicants' claim 1.

Figures 13-15 of Cauthen show an umbrella shaped annulus stent 10 having a central hub 66 with radially extending struts 67. Each of the struts 67 is joined to the adjacent strut 67 by a webbing material 65, forming a radial extension 76 about the central hub 66 (Col. 12, lines 38-44). The struts 67 are formed from flexible material, allowing the radial extension 76 to be collapsed for insertion into aperture 44, then expanded to conform to the shape of the inner wall of disc annulus 42. In the collapsed position, the annulus stent is substantially frustoconical or shuttlecock shaped (Col. 12, lines 55-60; Figures 13-15).

In contrast to Cauthen, the closure device in accordance with Applicants' amended claim 1 has a plurality of separate wings. Cauthen does not disclose or remotely suggest separate wings as claimed by Applicant. Rather, in Cauthen, the struts 67 are joined together by a webbing material 65 that forms a unified radial extension around the central hub which is substantially umbrella shaped (Col. 12, lines 38-44).

Further, Cauthen does not disclose or remotely suggest a closure device where each separate wing is held by means of a respective film hinged joint on the base part, as claimed by Applicants. In Cauthen, even if the portion of the webbing material extending between two struts 67 could somehow be considered to be wing, such a wing could not be considered a separate wing having a single joint. Cauthen does not disclose any particulars regarding the joint(s) holding the struts and or webbing material on the hub 66. From Figures 13-15 of Cauthen it would appear that there is either a continuous joint around the circumference of the hub 66 or a



separate joint for each strut. Thus, in Cauthen, the portion of the webbing material extending between two struts 67 either has two joints (one for each strut) or a joint that is common with the other portions of the webbing material extending between the other strut pairs. Either way, Cauthen does not show or suggest a single film hinged joint for each separate wing.

Additionally, in Cauthen it appears that the struts and/or webbing is joined to the side of the hub 66. Although no details are provided in Cauthen about the hinge or the joining of the struts 67 or webbing 65 to the hub 66, it appears from Figures 13-15 that the struts 67 and webbing 66 are all connected to a ring which surrounds the circumference of the hub 66, or that the struts 67 and webbing 65 are formed or somehow joined directly to the side of the hub 66. In contrast with Cauthen, with the closure device according to Applicants' amended claim 1, the joints are fixed on an upper surface of the base part. This enables the separate wings to be swiveled into a flapped-in position in which they do not protrude laterally over the base part. Cauthen does not disclose or remotely suggest separate wings which are fixed on an upper surface of the base part, as claimed by Applicants.

In addition, Cauthen does not disclose or remotely suggest separate wings that are arranged on the base part such that, in the flapped-in position, neighboring wings at least partially overlap one another such that no part of the wings protrudes laterally over the base part, as claimed by Applicants. In other words, when the separate wings of Applicants' claimed closure device are folded up, they overlap one another at least partially such that no part of the wings extends outside of the outer circumference of the base part. Thus, with Applicants' claimed invention, it is ensured that if the base part is able to fit through the tissue opening, the entire closure device, including wings, will fit through the opening. Cauthen is to the contrary. As can be seen from Figures 13 and 14, when the struts 67 are collapsed, the webbing sections extending between adjacent struts do not overlap. Further, when the struts are collapsed, the struts and webbing extend outside of the circumference of the hub 66. Further, as indicated in Cauthen, in the collapsed state the stent 10 takes on a frustoconical or shuttlecock like shape (i.e., a cone shape). This cone shape has a much larger outer circumference at an end away from the base part,

and the outer circumference at this end is much larger than that of the base part (e.g., compare Applicants' Figure 4 with Figures 14 and 15 of Cauthen).

Further, with Applicants' claimed invention according to amended claim 1, since the joints are arranged on the upper surface of the base part, an abutment area for the wings is provided on the base part preventing a further swiveling movement of the wings downward. Accordingly, the wings can be secured in the flapped-out position when the wings touch on one side the tissue and on the other side the upper surface of the base part. In contrast, Cauthen does not provided an abutment area for the struts 67 or webbing 65. Also, in Cauthen it appears that, since the struts 67 and webbing 65 are arranged on the side of the hub 66, the struts 67 and webbing 65 of Cauthen can be moved from one side of the hub 66 to the other side of the hub 66.

Accordingly, Cauthen does not disclose or remotely suggest the features of Applicants' amended claim 1.

Applicants respectfully submit that the present invention as set forth in amended claim 1 is not anticipated by and would not have been obvious to one skilled in the art in view of Cauthen, taken alone or in combination with any of the other prior art of record.

Withdrawal of the Examiner's telephone rejection of claim 1 in view of Cauthen is respectfully requested.

#### Discussion of Rejection of Claim 31

Claim 31 is amended herein to include the subject matter of claim 37. Claim 31 is also amended to specify a first centering means for centering the positioning element in the trocar sheath. In addition, claim 31 is amended to clarify that the centering means for the holding mandrel is a second centering means which substantially prevents transverse movability of the holding mandrel relative to the positioning element.

Claim 31 is rejected as being anticipated by King. Claim 37 is rejected as being unpatentable over King in view of Himpens. The Examiner also relies on Shichman as disclosing a reducing sleeve 130 that surrounds the insertable device (Office Action, page 11).

Applicants respectfully submit that King, Himpens, and Shichman, whether taken alone or in combination, do not disclose the features of Applicants' amended claim 31.

As discussed with the Examiner during the June 28, 2007 telephone interview, the diameter of the inner catheter 2 is much larger than that of the obturator wire 3 and thus the obturator wire 3 is permitted to move transversely in the catheter 2. In particular, King specifically indicates that the wire 3 has a diameter of 1.1 mm or less and that the catheter 2 is a number 5 French size catheter (Col. 7, lines 51-61). A French number 5 catheter has an inner diameter of 1.67 mm, which is substantially larger than the 1.1 mm or less diameter of wire 3. Thus, King does not disclose or remotely suggest a centering means for the holding mandrel which substantially prevents transverse movability of the holding mandrel relative to the positioning element, a claimed by Applicants in amended claim 31.

Further, reference numeral 130 of Shichman identified by the Examiner as a reducing sleeve is actually an actuator for the powered trocar assembly 100 of Shichman (Col. 4, lines 21-22). Such an actuator is not equivalent to a centering means or reducing sleeve for centering a positioning element in a trocar sheath. Applicants respectfully submit that the powered trocar assembly of Shichman is far removed from Applicants' claimed applicator device. In addition, there is no disclosure or suggestion that a holding mandrel having a hollow interior through which a suture can be guided can be used with the powered trocar of Shichman. There is also no suggestion that the powered trocar device of Shichman can be used with a holding mandrel that holds a closure device of the type claimed by Applicants.

Applicant respectfully submits that there is no motivation for one skilled in the art to combine the King, Shichman and Himpens. King relates to a shunt closing system for use in the heart. Shichman discloses a powered trocar that does not accommodate any type of closure device or thread. Himpens discloses an applicator for applying a sheet net for support of an abdominal wall. As can be seen from the respective Figures of the references, the applicator device of King is substantially different from the applicator device of Himpens. In addition, the respective closure devices of King and Himpens are quite different. Thus one skilled in the art would need to substantially modify the applicator device of one King or Himpens to incorporate

elements of the other of King or Himpens. If one skilled in the art were somehow able to combine the teachings of King or Himpens into a workable device, further extensive modifications would be required to modify the resulting applicator device for use with a powered trocar as disclosed in Shichman.

Assuming *arguendo* that one skilled in the art would somehow be motivated to combine King, Shichman, and Himpens, one skilled in the art would not arrive at Applicants' claimed invention according to claim 31. This is so as the combination of the cited references would not result in an applicator having both a first centering means for centering a positioning element in the trocar sheath and a second centering means for the holding mandrel which substantially prevents transverse movability of the holding mandrel relative to the positioning element, as claimed by Applicants.

With a first centering means for centering the positioning element in the trocar sheath and a second centering means for preventing transverse movability of the holding mandrel relative to the positioning element, the closure device can be positioned and manipulated with great accuracy with the applicator device claimed by Applicants. Such an advantage is not provided by the prior art of record.

Only with hindsight impermissibly gained from Applicants' specification could one of ordinary skill in the art have arrived at the conclusions reached by the Examiner.

Applicants respectfully submit that the present invention as set forth in amended claim 31 is not anticipated by and would not have been obvious to one skilled in the art in view of the prior art of record.

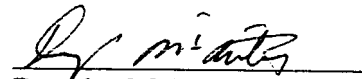
Further remarks regarding the asserted relationship between Applicants' claims and the prior art are not deemed necessary, in view of the amended claims and the foregoing discussion. Applicants' silence as to any of the Examiner's comments is not indicative of an acquiescence to the stated grounds of rejection.

Withdrawal of the rejections under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a) is therefore respectfully requested.

Conclusion

The Examiner is respectfully requested to reconsider this application, allow each of the pending claims and to pass this application on to an early issue. If there are any remaining issues that need to be addressed in order to place this application into condition for allowance, the Examiner is requested to telephone Applicants' undersigned attorney.

Respectfully submitted,



Douglas M. McAllister  
Attorney for Applicant(s)  
Registration No.: 37,886  
Lipsitz & McAllister, LLC  
755 Main Street  
Monroe, CT 06468  
(203) 459-0200

ATTORNEY DOCKET NO.: HOE-803  
Date: July 16, 2007

## UNITED STATES PATENT AND TRADEMARK OFFICE CERTIFICATE OF CORRECTION

Page 1 of 1

PATENT NO. : 7,311,720  
APPLICATION NO.: 10/789,372  
ISSUE DATE : December 25, 2007  
INVENTOR(S) : Mueller et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

- (1) Column 11, line 12: after "only" insert — one —.
- (2) Column 12, between lines 19 and 20 insert:  
-- a closure device; and  
an applicator device for holding and positioning said closure device;  
a trocar sheath adapted to accept the applicator device and the closure device;  
said closure device comprising:--.
- (3) Column 12, line 23: "wherein" is corrected to read — wherein:--.
- (4) Column 12, lines 25 and 26 are corrected to read:  
--hinged joint for swiveling movement on the base part at only one end of the closure device--.
- (5) Column 12, line 49: "meals" is corrected to read — means --.
- (6) Column 12, line 50: "prevent" is corrected to read — prevents --.
- (7) Column 12, line 55: "wading" is corrected to read — wardly --.

**MAILING ADDRESS OF SENDER (Please do not use customer number below):**

Lipsitz & McAllister, LLC  
755 Main Street - Building 8  
Monroe, CT 06468

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## UNITED STATES PATENT AND TRADEMARK OFFICE CERTIFICATE OF CORRECTION

Page 1 of 1

PATENT NO. : 7,311,720  
APPLICATION NO.: 10/789,372  
ISSUE DATE : December 25, 2007  
INVENTOR(S) : Mueller et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

- (1) Column 11, line 12: after "only" insert — one —.
- (2) Column 12, between lines 19 and 20 insert:  
-- a closure device; and  
an applicator device for holding and positioning said closure device;  
a trocar sheath adapted to accept the applicator device and the closure device;  
said closure device comprising:--.
- (3) Column 12, line 23: "wherein" is corrected to read -- wherein:--.
- (4) Column 12, lines 25 and 26 are corrected to read:  
--hinged joint for swiveling movement on the base part at only one end of the closure device--.
- (5) Column 12, line 49: "meals" is corrected to read -- means --.
- (6) Column 12, line 50: "prevent" is corrected to read -- prevents --.
- (7) Column 12, line 55: "wading" is corrected to read -- wardly --.

### MAILING ADDRESS OF SENDER (Please do not use customer number below):

Lipsitz & McAllister, LLC  
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Monroe, CT 06468

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